

Sullivan, Harry Leo

March 12, 2008

Nashville, TN

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UNITED STATES DISTRICT
FOR THE DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL) MDL NO. 1456
INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
PRICE LITIGATION) 01-CV-12257-PBS
THIS DOCUMENT RELATES TO)
U.S. ex rel. Ven-a-Care of)
of the Florida Keys, Inc.)
v.) No.06-CV-11337-PBS
ABBOTT LABORATORIES, INC.,)
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(cross captions appear on following pages)

Deposition of HARRY LEO SULLIVAN

Volume I

Nashville, Tennessee

Tuesday, March 12, 2008

9:05 a.m.

Henderson Legal Services, Inc.

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<p>1 left in January 2004?</p> <p>2 A. Yes. And should be still maintained by</p> <p>3 the State of Tennessee.</p> <p>4 Q. But when you worked for the State of</p> <p>5 Tennessee, you did have some documents that would</p> <p>6 have been responsive.</p> <p>7 A. Sure.</p> <p>8 Q. Is that fair to say?</p> <p>9 A. Sure. Absolutely.</p> <p>10 Q. Tell me again what, what position you</p> <p>11 had when you left.</p> <p>12 A. I was the director of the pharmacy --</p> <p>13 some pharmacy services for TennCare.</p> <p>14 Q. Director of pharmacy services would be</p> <p>15 your title?</p> <p>16 A. Yes.</p> <p>17 Q. How long did you have that job?</p> <p>18 A. I began in 19 -- in the fall of 1989</p> <p>19 and left in January of 2004.</p> <p>20 Q. You had that job the, the same title,</p> <p>21 the entire time?</p> <p>22 A. No. For about a six-month period of</p>	<p>1 documents that might relate to drug pricing or</p> <p>2 average wholesale price?</p> <p>3 A. Can you restate that?</p> <p>4 Q. Sure. While you were the director of</p> <p>5 pharmacy services at TennCare --</p> <p>6 A. Um-hum.</p> <p>7 Q. -- from 1989 through 2004, with the</p> <p>8 exception of the nine-month window, did you ever</p> <p>9 receive a written or oral direction to retain</p> <p>10 documents that might relate to drug pricing or</p> <p>11 average wholesale price?</p> <p>12 A. Direction from whom? I'm unclear.</p> <p>13 Q. Anybody.</p> <p>14 A. Anybody?</p> <p>15 Q. Anybody.</p> <p>16 A. I can't say that anybody specifically</p> <p>17 told me to retain those documents, no.</p> <p>18 Q. Do you recall anyone generally telling</p> <p>19 you there may be litigation relating to issues of</p> <p>20 pharmacy payment?</p> <p>21 A. Well, --</p> <p>22 Q. We need to retain documents.</p>
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<p>1 time I left that department and went to another</p> <p>2 department in state government, and then shortly</p> <p>3 left to the private sector and then was -- and</p> <p>4 then returned to the job. So for about a, oh,</p> <p>5 nine-month window around, in '96 period of time,</p> <p>6 I was not in that position. Then I was back into</p> <p>7 that position, until January of 2004.</p> <p>8 Q. So help me trace that. I want to trace</p> <p>9 through that specifically. In 1989 you started</p> <p>10 as the director of pharmacy services. And then</p> <p>11 you had that job until what time?</p> <p>12 A. Some -- I couldn't -- I'd have to get</p> <p>13 you exact dates. In '96.</p> <p>14 Q. Okay.</p> <p>15 A. I left for about a nine-month period of</p> <p>16 time.</p> <p>17 Q. Then came back and held the same</p> <p>18 position?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. During your time as the director</p> <p>21 of pharmacy services of TennCare, did you receive</p> <p>22 any direction, either oral or written, to retain</p>	<p>1 A. No. But I would go on to say, if I</p> <p>2 can, just generally speaking, when you work for</p> <p>3 state government you're very mindful that nothing</p> <p>4 you do from a policy standpoint or a programmatic</p> <p>5 standpoint should be done because of, of all the</p> <p>6 people you answer, answer to, from the</p> <p>7 legislature, to the executive branch to the</p> <p>8 taxpayers, to your own bosses. You need</p> <p>9 documentation on whatever you do. So it would be</p> <p>10 prudent to retain those kinds of records, and I</p> <p>11 certainly did. But I, I don't remember anybody</p> <p>12 specifically saying if you receive any pricing</p> <p>13 information, be sure to retain that, that</p> <p>14 information.</p> <p>15 We also, and speaking on pricing in</p> <p>16 general, our computer claims processing system</p> <p>17 maintained historical data on everything from MAC</p> <p>18 prices to, to updates from Blue Book.</p> <p>19 Q. So if somebody wanted to determine</p> <p>20 which drug products TennCare had a maximal</p> <p>21 allowable cost on, say, in 1994, you believe the</p> <p>22 state would have records that would show that.</p>

8 (Pages 26 to 29)

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